

Merits Panel
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Paper 37

Filed: December 14, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge Jameson Lee)

HAROLD R. GARNER
Junior Party
(Application 09/998,341),

v.

CALVIN F. QUATE
and
DAVID STERN
Senior Party
(Patent 6,480,324).
Patent Interference No. 105,455 (JL)
(Technology Center 1600)

Before SCHAFER, LEE, and MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

JUDGMENT - Bd. R. 127(a)

Garner has failed to explain why judgment should not be entered against it based upon its failure to establish that it could prevail on the issue of priority. 37 CFR § 41.202(d) (2005).

Upon consideration of the decision on the Order to Show Cause, it is **ORDERED** that judgment on priority as to Count 1 (the sole count in the interference; Paper 1, page 4) is awarded against Junior Party Harold R. Garner

1 **FURTHER ORDERED** that Junior Party Harold R. Garner is not entitled to a
2 patent containing claims 39, 41-48 and 50-58 (corresponding to Count 1) of application
3 09/998,341.

4 **FURTHER ORDERED** that if there is a settlement agreement, attention is
5 directed to 35 U.S.C. § 135(c).

6 **FURTHER ORDERED** that a copy of this JUDGMENT and accompanying
7 DECISION shall be placed in the files of (1) application 09/998,341 and (2) U.S. Patent
8 6,480,324.

/Richard E. Schafer/)	
ADMINISTRATIVE PATENT JUDGE)	
)	
)	BOARD OF PATENT
/Jameson Lee/)	APPEALS AND
ADMINISTRATIVE PATENT JUDGE)	INTERFERENCES
)	
)	
/James T. Moore/)	
ADMINISTRATIVE PATENT JUDGE)	

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